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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,029	07/26/2000	PETER HIMMELSBACH	BEIERSDORF-6	5165
7055 7590 11/09/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER PIZIALI, ANDREW T	
			ART UNIT	PAPER NUMBER
			1771	
			NOTIFICATION DATE	DELIVERY MODE
			11/09/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Mailed: 11-8-07

In re application of

Himmelsbach et al.

Serial No. 09/601,029

Filed: July 26, 2000

For: Supporting Material For Medical Purposes

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: DECISION ON
: PETITION
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This is a response to appellants Petition To The Director Under 37 C.F.R. 1.181 or 37 C.F.R. 1.137(b) filed on October 17, 2007. The petition requests that the Notice of Abandonment mailed October 1, 2007 be withdrawn and that examination of the present appeal be resumed on the basis of the Third Supplemental Appeal Brief filed under 37 C.F.R. 41.37 enclosed with applicant's petition request.

37 CFR 41.37 (d) requires that if a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

The events in this case occurred as follows. On December 26, 2006 petitioners submitted an Appeal Brief from a final office action dated August 2, 2006. The Patent Office mailed a notice of non-compliant appeal brief on February 21, 2007. The basis for the non-compliant notice was that the appeal brief failed to mention in the Status of Claims Section the status of the claims 1-36. Petitioners filed a Supplemental Brief on March 2, 2007. The Office on June 25, 2007 found the Brief submitted on March 2, 2007 was non-compliant noting that the Supplemental Brief did not present an argument under a separate heading for each of the grounds of rejection. Appellant on July 3, 2007 submitted a second supplemental appeal brief which the Office determined failed to overcome the reasons for non-compliance in the notification mailed on June 25, 2007. The Brief failed to present a separate heading for grounds of rejection #17. The Appeal was dismissed under 37 CFR 41.37(d) and the application abandoned.

Petitioners assert that the second supplemental appeal brief does overcome all the reasons for non-compliance stated in the notification of non-compliance mailed June 25, 2007 and that the second supplemental appeal brief is deficient for a reason which is different.

In the second supplemental appeal brief the entire section with the argument pertaining to ground of rejection #17 was omitted. Appellant was instructed to present an argument under a separate heading for each ground of rejection in the notification mailed on June 25, 2007. The omission

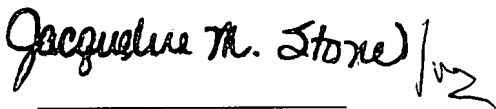
of the entire section fails to present a separate heading for the ground of rejection #17 and 37 C.F.R. (d) was properly applied.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **Dismissed**.

Appellants request for consideration under 37 C.F.R. 1.137(b) will be considered and referred to the Office of Petitions.

A handwritten signature in black ink that reads "Jacqueline M. Stone" followed by a stylized flourish.

Jacqueline Stone, Director
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